

# **EXHIBIT 13 TO SHARKEY DECLARATION**

**From:** [Rabenstein, Reba \(DC\)](#)  
**To:** [Shannon, Timothy](#); [Keown, Wayne](#)  
**Cc:** [shansen@nixonpeabody.com](#); [spritchett@nixonpeabody.com](#); [tlieberman@nixonpeabody.com](#); [Frazier, David \(DC\)](#); [#C-M ASTELLAS - ASTELLAS V. IMSTEM - LW TEAM](#)  
**Subject:** RE: Astellas v. ImStem, No. 1:17-cv-12239-ADB (D. Mass.)  
**Date:** Thursday, March 14, 2019 5:47:39 PM  
**Attachments:** [IMSTEM Draft Protective order \(LW rev 2019-03-04\).DOCX](#)  
[Marked for Redaction 2019.03.06 Xu Resp to Astellas 1st Rogs \(1-21\) \[CONFIDENTIAL\].pdf](#)  
[Marked for redaction 2019.03.06 Wang and Imstem Resp to Astellas 1st Rogs \(1-21\) \[CONFIDENTIAL\].pdf](#)

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Tim,

We still have not heard back from you regarding the revised protective order that we sent on March 4 (attached again), where we accepted all of your prior edits and proposed a small edit to one sentence that you added.

If we do not hear from you by tomorrow, Friday, March 15, we will assume that you oppose our final edit. We will then file a motion early next week for entry of the proposed protective order, noting that it is opposed, and explaining that the parties largely agreed-upon the protective order, but that one outstanding dispute remains.

Separately, please let us know about the proposed redactions in the attached interrogatory responses and the dates that your witnesses are available for the noticed depositions. In the interest of efficiency, Dr. Kimbrel is available for deposition, if noticed, on April 9, 2019.

Best,

Reba

**Rebecca L. Rabenstein**

**LATHAM & WATKINS LLP**

555 Eleventh Street, NW | Suite 1000 | Washington, D.C. 20004-1304

D: +1.202.637.2353

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**From:** Rabenstein, Reba (DC)  
**Sent:** Tuesday, March 12, 2019 6:58 PM  
**To:** Shannon, Timothy ; Keown, Wayne  
**Cc:** [slevy@nixonpeabody.com](#); [shansen@nixonpeabody.com](#); [spritchett@nixonpeabody.com](#); [tlieberman@nixonpeabody.com](#); [Frazier, David \(DC\)](#) ; [#C-M ASTELLAS - ASTELLAS V. IMSTEM - LW TEAM](#)  
**Subject:** RE: Astellas v. ImStem, No. 1:17-cv-12239-ADB (D. Mass.)

Tim,

We have not heard back from you regarding the revised protective order (attached again), our proposed redactions to your interrogatory responses so that we may share the redacted versions with our client, or the dates that the witnesses we noticed for deposition (Xiaofang Wang, Ren-He Xu, Michael Men and ImStem's 30(b)(6) witness) are available.

Please let us know:

- 1) whether you agree to the final edit in the revised protective order, if so we will get this on file;
- 2) whether you agree with our proposed redactions to your interrogatory responses or whether you propose additional material to be redacted before we may share with our client; and
- 3) the dates on which the noticed individuals are available for their depositions.

Best,

Reba

**Rebecca L. Rabenstein**

**LATHAM & WATKINS LLP**

555 Eleventh Street, NW | Suite 1000 | Washington, D.C. 20004-1304

D: +1.202.637.2353

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**From:** Rabenstein, Reba (DC) <[Rebecca.Rabenstein@lw.com](mailto:Rebecca.Rabenstein@lw.com)>

**Sent:** Monday, March 04, 2019 5:42 PM

**To:** Shannon, Timothy <[tshannon@verrilldana.com](mailto:tshannon@verrilldana.com)>; Keown, Wayne <[wkeown@verrilldana.com](mailto:wkeown@verrilldana.com)>

**Cc:** [slevy@nixonpeabody.com](mailto:slevy@nixonpeabody.com); [shansen@nixonpeabody.com](mailto:shansen@nixonpeabody.com); [spritchett@nixonpeabody.com](mailto:spritchett@nixonpeabody.com); [tlieberman@nixonpeabody.com](mailto:tlieberman@nixonpeabody.com); Frazier, David (DC) <[David.Frazier@lw.com](mailto:David.Frazier@lw.com)>; #C-M ASTELLAS - ASTELLAS V. IMSTEM - LW TEAM <[ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com](mailto:ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com)>

**Subject:** RE: Astellas v. ImStem, No. 1:17-cv-12239-ADB (D. Mass.)

Tim,

Please find attached a slightly revised protective order. We accepted almost all of your redlines, with the exception of one sentence in the paragraph on in-house counsel. We are ok with including that sentence in the final protective order with the edit we have made to that sentence in the attached. We have also updated your signature block to remove Mr. Kebede (in track changes), given his withdrawal from the case. Please let us know if that is incorrect.

Please let us know if this last edit is ok with you and we will get this on file.

Best,

Reba

**Rebecca L. Rabenstein**

**LATHAM & WATKINS LLP**

555 Eleventh Street, NW | Suite 1000 | Washington, D.C. 20004-1304

D: +1.202.637.2353

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**From:** Shannon, Timothy <[tshannon@verrilldana.com](mailto:tshannon@verrilldana.com)>

**Sent:** Sunday, February 24, 2019 11:55 PM

**To:** Rabenstein, Reba (DC) <[Rebecca.Rabenstein@lw.com](mailto:Rebecca.Rabenstein@lw.com)>; Keown, Wayne <[wkeown@verrilldana.com](mailto:wkeown@verrilldana.com)>

**Cc:** [slevy@nixonpeabody.com](mailto:slevy@nixonpeabody.com); [shansen@nixonpeabody.com](mailto:shansen@nixonpeabody.com); [spritchett@nixonpeabody.com](mailto:spritchett@nixonpeabody.com); [tlieberman@nixonpeabody.com](mailto:tlieberman@nixonpeabody.com); Frazier, David (DC) <[David.Frazier@lw.com](mailto:David.Frazier@lw.com)>; #C-M ASTELLAS - ASTELLAS V. IMSTEM - LW TEAM <[ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com](mailto:ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com)>

**Subject:** RE: Astellas v. ImStem, No. 1:17-cv-12239-ADB (D. Mass.)

Reba,

Attached please find our redlines. We've amended the prosecution bar slightly, added a provision for challenging relevancy redactions, and required the parties to spell out the restrictions on the kind of in-house counsel who can see Highly Confidential documents. With these changes we're prepared to assent.

We also agree that the depositions should wait. Upon further review, we believe we may have more documents to produce. I expect to have details for you early this week.

Regards,

Tim

**Timothy R. Shannon, Partner**

One Portland Square

Portland, ME 04112-0586

Office: (207) 253-4622

One Boston Place, Suite 1600

Boston, MA 02108-4407

Office: (617) 309-2600

Bio: [verrilldana.com/tshannon](http://verrilldana.com/tshannon)

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**From:** [Rebecca.Rabenstein@lw.com](mailto:Rebecca.Rabenstein@lw.com) [<mailto:Rebecca.Rabenstein@lw.com>]

**Sent:** Wednesday, February 20, 2019 2:46 PM

**To:** Shannon, Timothy <[tshannon@verrilldana.com](mailto:tshannon@verrilldana.com)>; Keown, Wayne <[wkeown@verrilldana.com](mailto:wkeown@verrilldana.com)>

**Cc:** [slevy@nixonpeabody.com](mailto:slevy@nixonpeabody.com); [shansen@nixonpeabody.com](mailto:shansen@nixonpeabody.com); [spritchett@nixonpeabody.com](mailto:spritchett@nixonpeabody.com);

[tlieberman@nixonpeabody.com](mailto:tlieberman@nixonpeabody.com); [David.Frazier@lw.com](mailto:David.Frazier@lw.com);

[ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com](mailto:ASTELLASASTELLASV.IMSTEM.LWTEAM@lw.com)

**Subject:** Astellas v. ImStem, No. 1:17-cv-12239-ADB (D. Mass.)

Tim,

Please let us know when your witnesses whom we have noticed depositions for (Xiaofang Wang, Ren-He Xu, Michael Men, and ImStem's 30(b)(6) witness) will be available for their depositions. The notices we served on February 6, identified dates starting this coming **Monday, February 25**. We, of course, are willing to be flexible about when these depositions occur, particularly in light of the extended schedule for fact discovery and the need to address issues with Defendants' document production beforehand.

Separately, we are following up on the protective order (current revision of the protective order attached for reference). There are two outstanding issues following our January 25 meet and confer: 1) the subject-matter language in the prosecution bar and 2) in-house counsel's ability to see highly confidential information provided that such in-house counsel is not involved in "competitive decisionmaking" as defined in the relevant case law. We understand that you were going to review the subject-matter language in the prosecution bar and let us know if you agreed to it or, if not, to propose any revisions. We also understand that you were considering the in-house counsel issue. Since we have not heard from you on these issues since the meet and confer and we need to move forward with entering the protective order, we plan to file a motion requesting that the Court enter a clean version of the attached protective order on **Monday, February 25**. We presume that you will oppose such a motion, but please let us know whether you will assent to such a motion before February 25. As ever, we remain open to any discussions you would like to have.

Best,

Reba

**Rebecca L. Rabenstein**

**LATHAM & WATKINS LLP**

555 Eleventh Street, NW

Suite 1000

Washington, D.C. 20004-1304

Direct Dial: +1.202.637.2353

Fax: +1.202.637.2201

Email: [rebecca.rabenstein@lw.com](mailto:rebecca.rabenstein@lw.com)

<http://www.lw.com>

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